

CITY OF FORT LUPTON CITY COUNCIL



Shannon Rhoda, Ward 1
Chris Ceretto, Ward 2
Michael Sanchez, Ward 3

Zo Stieber, Mayor

David Crespin, Ward 1
Tommy Holton, Ward 2
Bruce Fitzgerald, Ward 3

AM 2020-061

APPROVE A RESOLUTION ACCEPTING AN ANNEXATION PETITION FOR THE MORRISON ANNEXATION SUBMITTED BY ANDREW MORRISON AND KAMBER MORRISON AND TO SET A PUBLIC HEARING DATE FOR MAY 5, 2020.

I. **Agenda Date:** Council Meeting – March 17, 2020

II. **Attachments:**

- a. Resolution
- b. Land Use Application
- c. Annexation Petition
- d. Annexation Map

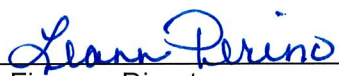
III. **Summary Statement:**

Andrew Morrison and Kamber Morrison (collectively, the “Applicants”) have submitted an annexation petition to initiate annexation proceedings for one parcel of land. The parcel is located west and adjacent to County Road 29 right of way and approximately 0.25 miles north from County Road 8 (Parcel No. 147117000091). This proposed annexation, known as the Morrison Annexation, consists of a total of 37.58 more or less. The resolution is to accept the annexation petition and initiate the two-month (60 day) review process that involves staff, referral agencies, Planning Commission and City Council. Approval of the resolution does not constitute approval of the annexation request. Approval of the resolution simply means that there is an interest in considering the annexation, with the final decision to be made by City Council at a public hearing on May 5, 2020.

IV. **Submitted by:**


Planner

V. **Finance Reviewed**


Finance Director

VI. **Approved for Presentation:**


City Administrator

VII. **Attorney Reviewed**

Approved

Pending Approval

VIII. **Certification of Council Approval:**

City Clerk

Date

IX. Detail of Issue/Request:

Andrew Morrison and Kamber Morrison (collectively, the "Applicants") have submitted an annexation petition to initiate annexation proceedings for one parcel of land. The parcel is located west and adjacent to County Road 29 right of way and approximately 0.25 miles north from County Road 8 (Parcel No. 147117000091). This proposed annexation, known as the Morrison Annexation, consists of a total of 37.58 more or less. The resolution is to accept the annexation petition and initiate the two-month (60 day) review process that involves staff, referral agencies, Planning Commission and City Council. Approval of the resolution does not constitute approval of the annexation request. Approval of the resolution simply means that there is an interest in considering the annexation, with the final decision to be made by City Council at a public hearing on May 5, 2020. The application includes an initial zoning request to Agriculture.

The initiating resolution is the first step in the annexation process and is to accept the annexation petition and initiate the two-month (60 day) review process that involves staff, referral agencies, Planning Commission and City Council. The resolution also sets the public hearing date to consider the annexation. If Council adopts the resolution to accept the petition, the petitioners will move on to the next step, which is the review of the proposed annexation, initial zoning, and submitted application documents by the Development Review Team (DRT). Step three is a review and public hearing on April 23, 2020 by the Planning Commission who will provide Council with a recommendation. City Council is then required to act upon the request by ordinance at the public hearing, which is proposed to be set for May 5, 2020, which is the final step in the process.

X. Legal/Political Considerations:

State law and the Fort Lupton Municipal Code require the City Council to set a hearing date for the annexation request (Municipal Code Chapter 15). The Council hearing date must not be less than 30 days nor more than 60 days from the date of the resolution of substantial compliance, unless stipulated by the applicant. Staff recommends that the date for the City Council public hearing be set for May 5, 2020, which is nine days before 60 days. The Planning Commission will conduct a public hearing on April 23, 2020 and make a recommendation to City Council.

According to State annexation law, if the City Council finds the annexation petition and the annexation map in substantial conformance with Section 31-12-107 C.R.S. a resolution may be adopted to initiate annexation proceedings. Section 31-12-107 outlines the requirements for a proper annexation petition and the supporting annexation map. It is the opinion of staff that the petition and annexation map meet the requirements of Section 31-12-107 C.R.S. A finding of substantial conformance does not imply that Council agrees that the property should be annexed; however, a finding that the petition and map do not conform to the requirements is effectively a denial. Staff believes that the petition and annexation map are in substantial conformance with such requirements.

XI. Alternatives/Options:

The City Council has the following three options:

- a) Approve the resolution accepting the annexation petition and initiating the annexation proceedings; or

- b) *Reject the annexation petition at which time the annexation request will not move forward;*
or
- c) *Delay action on the resolution to gather more information.*

XII. Financial Considerations:

Applicable application fees and fee deposits have been submitted by the applicant.

XIII. Staff Recommendation:

Staff recommends approval of the Resolution accepting the annexation petition and initiating annexation proceedings for the Morrison Annexation and set the public hearing for May 5, 2020.

RESOLUTION NO. 2020Rxxx

A RESOLUTION OF THE CITY COUNCIL OF FORT LUPTON INITIATING ANNEXATION PROCEEDINGS FOR THE ANNEXATION KNOWN AS THE MORRISON ANNEXATION AND SETTING THE PUBLIC HEARING FOR MAY 5, 2020

WHEREAS, the Fort Lupton City Council has reviewed the annexation petition submitted by Andrew Morrison and Kamber Morrison for 37.58 acres, more or less, and known as the Morrison Annexation; and

WHEREAS, the Fort Lupton City Council finds the annexation petition to be complete and in substantial conformance with the requirements of C.R.S. 31-12-107 (1) as amended.

NOW THEREFORE BE IT RESOLVED that the Fort Lupton City Council hereby approves this Resolution initiating annexation proceedings for the Morrison Annexation and sets the hearing date for May 5, 2020, to determine if the proposed annexation complies with C.R.S. 31-12-104 and 31-12-105, or such parts thereof as may be required to establish eligibility for annexation under the terms of Part 1, Article 12, Title 31, C.R.S.

APPROVED AND ADOPTED BY THE FORT LUPTON CITY COUNCIL THIS 17th DAY OF MARCH, 2020.

City of Fort Lupton, Colorado

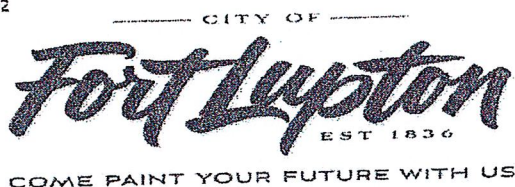
Zo Stieber, Mayor

Attest:

Maricela Peña, Interim City Clerk

Approved as to form:

Andy Ausmus, City Attorney



Planning & Building

130 S. McKinley Avenue
Fort Lupton, CO 80621

Phone: 303.857.6694
Fax: 303.857.0351

www.fortlupton.org

Project No. _____

Land Use Application Form

A. CONTACT INFORMATION

- 1) Property Owner Name: Andrew and Kamber Morrison
 Company: N/A
 Phone: 720-841-1175 Email: andyrm66@gmail.com
 Address: 13757 County Road 8, Fort Lupton, CO 80621
 Preferred method of contact? Email: ☒ Phone: ☒ Mail: ☐
- 2) Representative Name: Jack Silver and Terry Jo Epstein*
 Company: Holsinger Law, LLC
 Phone: 303-722-2828 Email: jsilver@holsingerlaw.com; tepstein@holsingerlaw.com
 Address: 1800 Glenarm Pl., Ste. 500, Denver, CO 80202
 Preferred method of contact? Email: ☐ Phone: ☒ Mail: ☐
- 3) Billing Contact (where invoices should be directed to): Jack Silver or Terry Jo Epstein
 Billing Company: Holsinger Law, LLC
 Phone: 720-330-8244 Email: jsilver@holsingerlaw.com
 Address: 1800 Glenarm Pl., Ste. 500, Denver, CO 80202

B. SITE DESCRIPTION

Site Address: 13757 County Road 8, Fort Lupton, CO 80621
 Parcel Number: 147117000091
 Existing Zone Classification: Agriculture Proposed Zone Classification: Agriculture
 Water Type: Existing Well Name: N/A
 Sewage Type: Septic Tank District Name or Location Hauled to: N/A

C. APPLICATION TYPE (CHECK ALL THAT APPLY)

- | | | |
|--|---|---|
| <input type="checkbox"/> Sketch Plat | <input type="checkbox"/> Administrative Site Plan | <input type="checkbox"/> PUD Plan (Preliminary & Final) |
| <input type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Special Use Permit | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Final Plat | <input type="checkbox"/> Oil & Gas Permit | <input type="checkbox"/> Administrative Variance |
| <input type="checkbox"/> Minor Subdivision | <input checked="" type="checkbox"/> Annexation & Initial Zone | <input type="checkbox"/> Appeal |
| <input type="checkbox"/> Amended Plat | <input type="checkbox"/> Change of Zone | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Site Plan | <input type="checkbox"/> Comp Plan Amendment | |

*See also Addendum 1 appended hereto.

Project No. _____

D. PROJECT DESCRIPTION

Project Name: Morrison Annexation

Please provide a short description of the proposed project in the space provided below:

Please see Addendum 2 appended hereto.

E. REQUIRED DOCUMENTS

For an application to be considered complete, and for planning staff to begin review and schedule any applicable public hearings, this Land Use Application Form must be fully completed and all required attachments included. Planning staff will review the application for completeness and will provide notice to the representative and/or owner whether the application has been deemed complete.

F. CERTIFICATIONS

Representative Certification

By signing this application, I attest that I am acting with the knowledge and consent of all owners of the property that is the subject of this application, and that I have been designated to act as the representative for the project described in this land use application. I further certify that all information submitted with this application is true and accurate to the best of my knowledge.

Representative: _____

Terry Jo Epstein, Holsinger
Law, LLC

Date: 1/30/2020

Owner Certification

I hereby certify that I am the legal owner of record of the property that is the subject of this application. I hereby authorize the representative listed on this application, if any, to communicate directly with City officials and to submit documentation and information regarding this application on my behalf.

Owner: _____

Date: 1-25-20

Owner: _____

Date: 1-25-20

For Office Use Only

Received Date: _____

If the application is not complete, state reasons why it is incomplete:

Deemed Complete Date: _____

Fees Submitted: _____

Escrow Submitted: _____

ADDENDUM 1 TO LAND USE/ANNEXATION/ZONING APPLICATION FORM

A. Contact Information

2) Additional Representatives:

- a) Representative Name: Sarah Ostby
Representative Company: Holsinger Law, LLC
Phone: 720-330-8247
Email: sostby@holsingerlaw.com
Address: 1800 Glenarm Pl., Ste. 500, Denver, CO 80202

ADDENDUM 2 TO LAND USE/ANNEXATION/ZONING APPLICATION FORM

D. Project Description

The proposed project will occur with regard to property and will not entail new or additional residential, commercial, or industrial development. The zoning classification and/or use of the property will not change. The proposed project shall consist of an annexation into the city limits of the City of Fort Lupton for purposes of inclusion into the Northern Colorado Water Conservancy District and the Municipal Subdistrict in order to supply water to the property identified herein ("Property"). Any improvements to be constructed upon the Property will be limited to digging and/or trenching related to the establishment of structures intended to convey water to the Property in connection with the Inclusion.

PETITION FOR ANNEXATION

TO: THE CITY COUNCIL OF FORT LUPTON, COLORADO

We, the undersigned landowners, in accordance with Colorado law, hereby petition the City of Fort Lupton and its City Council for annexation to the City of Fort Lupton of the unincorporated territory, the legal description of which is attached hereto as Exhibit A and incorporated herein by this reference, located in the County of Weld and the State of Colorado, and to be known as the Morrison Annexation to the City of Fort Lupton.

As part of this petition, the petitioners further state to the City Council that:

1. It is desirable and necessary that the territory described in Exhibit A be annexed to the City of Fort Lupton.
2. The requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, exist or have been met in that:
 - a. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the City of Fort Lupton or will be contiguous with the City of Fort Lupton within such time as required by Section 31-12-104.
 - b. A community of interest exists between the area proposed to be annexed and the City of Fort Lupton.
 - c. The area proposed to be annexed is urban or will be urbanized in the near future.
 - d. The area proposed to be annexed is integrated with or is capable of being integrated with the City of Fort Lupton.
 - e. No land within the boundary of the area proposed to be annexed which is held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels were separated by a dedicated street, road, or other public way.
 - f. No land within the boundary of the area proposed to be annexed which is held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprises twenty acres or more, and, together with the buildings and improvements situated thereon, has an assessed value in excess of two hundred thousand dollars (\$200,000.00) for ad valorem tax purposes for the year next preceding the annexation, has been included within the area proposed to be annexed without the written consent of the landowner or landowners.
 - g. No annexation proceedings have been commenced for any portion of the area proposed to be annexed for the annexation of such area to another municipality. The area proposed to be annexed is not part of any incorporated city, city and county, or town.

- h. The territory proposed to be annexed does not include any area which is the same or substantially the same area in which an election for an annexation to the City of Fort Lupton was held within the twelve months preceding the filing of this petition.
 - i. The annexation of the area proposed to be annexed will not result in the detachment of said area from any school district.
 - j. The annexation of the territory proposed to be annexed will not have the effect of extending the boundary of the City of Fort Lupton more than three miles in any direction from any point of the boundary of the City of Fort Lupton in any one year.
 - k. The territory to be annexed is **37.58 acres** more or less in total area.
 - l. Prior to completion of the annexation of the area proposed to be annexed, a plan will be in place, pursuant to Section 31-12-105 (1) (e), C.R. S., which generally describes the proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the City of Fort Lupton, and the proposed land uses for the area.
 - m. In establishing the boundary of the area proposed to be annexed, if a portion of a platted street or alley is to be annexed, the entire width of the street or alley has been included within the area annexed, and reasonable access will not be denied to any landowners, owners of any easement, or the owners of any franchise adjoining any platted street or alley which is to be annexed but is not bounded on both sides by the City of Fort Lupton.
 - n. If required, an impact report will be prepared and filed pursuant to Section 31-12-108.5, C.R.S.
3. The signer(s) of this petition comprise(s) more than fifty percent (50%) of the landowners and own more than fifty percent (50%) of the property, excluding public streets and alleys and any land owned by the annexing municipality, and are, in fact, owners of one hundred percent (100%) of the property set forth in Exhibit A attached hereto and incorporated herein by reference.
4. At least fifteen (15) days prior to the presentation of this petition to the Fort Lupton City Council, a minimum of fifteen (15) copies of an annexation map shall be submitted to the City, produced with an engineer's scale, minimum scale to be one (1) inch represents one hundred (100) feet, on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches, containing the following information:
- a. The date of preparation, the scale and a symbol designating true north.
 - b. The name of the annexation.
 - c. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the annexation map.
 - d. The legal description.
 - e. Distinction of the boundary that is contiguous to the City and the length of same.
 - f. Lot and block numbers if the area is already platted.
 - g. Existing and proposed easements and rights-of-way.

- h. Existing and requested zoning and acreage of each requested zone.
 - i. Ownership of all parcels within and adjacent to the annexation.
 - j. Appropriate certification blocks as directed by the Planning Department.
- 5. At least fifteen (15) days prior to the presentation of this petition to the Fort Lupton City Council, a minimum of fifteen (15) copies of a master plan shall be submitted to the City of Fort Lupton, produced with an engineer's scale, minimum scale to be one (1) inch represents one hundred (100) feet, on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches, containing the following information.
 - a. The date of preparation, the scale and a symbol designating true north.
 - b. The name of the annexation.
 - c. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the master plan.
 - d. Existing and proposed easements and rights-of-way.
 - e. Block numbers and lot numbers with approximate dimensions.
 - f. Proposed gross and net residential density.
 - g. Existing watercourses with adequate easements for flood control.
 - h. Designation of all public sites to be reserved and dedicated.
 - i. Existing two-foot contours.
 - j. Appropriate certification blocks as directed by the Planning Department.
- 6. At least fifteen (15) days prior to the presentation of this petition to the Fort Lupton City Council, a minimum of five (5) copies of all required supportive information shall be submitted to the City of Fort Lupton which shall include the following:
 - a. Soils description and limitation.
 - b. Preliminary utility plan.
 - c. Mailing addresses of all property owners within five hundred (500) feet of the annexation.
 - d. Affidavit concerning the amount and historical use of all water rights owned.
 - e. Vicinity map with one and one-half (1 ½) mile radius, at a minimum scale of one (1) inch represents two thousand (2,000) feet.
 - f. Statement on community need for proposed annexation and zoning.
 - g. For all annexations in excess of ten (10) acres, the applicant shall obtain from the school district governing the area to be annexed a statement of the effect of the annexation upon the school district, including an estimate of the number of students generated by the proposed annexation and the capital construction required to educate such students.
- 7. Upon the annexation ordinance becoming effective, all lands within the area proposed to be annexed will become subject to all ordinances, resolutions, rules, and regulations of the City of Fort Lupton, except for general property taxes of the City of Fort Lupton, which shall become effective as of the January 1 next ensuing.

8. The zoning classification requested for the area proposed to be annexed is agricultural, as shown on the annexation map attached hereto and incorporated herein.
9. As required by the City of Fort Lupton, an annexation agreement has been or will be executed by the petitioners herein and the City relating to this annexation and the petitioners hereby expressly consent to the terms and conditions set forth in the annexation agreement.
10. As an expressed condition of annexation, landowner(s) consent(s) to petition for inclusion into the Northern Colorado Water Conservancy District and the municipal sub district pursuant to Section 37-45-136 (3.6) C.R.S. to pay the appropriate fees and costs associated with such inclusion. Landowner(s) acknowledge(s) that, upon inclusion into the district and subdistrict, landowner's(s') property will be subject to the same mill levies and special assessments as are levied or will be levied on other similarly situated property in the district and subdistrict at the time of inclusion of landowners(s') lands. Landowner(s) agree(s) to waive any right to an election which may exist to require an election pursuant to Article X, Section 20, of the Colorado Constitution before the district and subdistrict can impose such mill levies and special assessments as it has the authority to impose. Landowner(s) also agree(s) to waive, upon inclusion, any right which may exist to a refund pursuant to Article X, Section 20, of the Colorado Constitution.
11. The non-refundable annexation application fee of \$1,300.64 is tendered herewith.

THEREFORE, the undersigned respectfully petition(s) the City Council of the City of Fort Lupton, to annex the territory described and referred to in Exhibit A to the City of Fort Lupton in accordance with and pursuant to the statutes of the State of Colorado.

Land Owner(s) Name(s) and Signature(s)

Mailing Address

Date of Signing

Andrew Morrison
Andrew Morrison

13757 County Road 8,
Fort Lupton, CO 80621

1-25-20

Kamber Morrison
Kamber Morrison

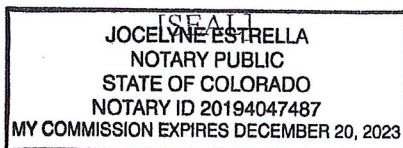
13757 County Road 8,
Fort Lupton, CO 80621

1-25-20

STATE OF COLORADO)
) ss.
COUNTY OF Boulder)

The foregoing signature was subscribed and sworn to before me this 25th day of January, 2020, by Andrew Morrison.

Witness my hand and official seal.



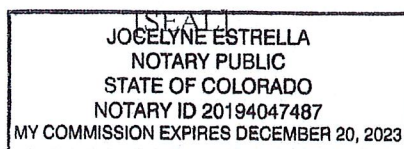
Notary Public: 20194047487 Jocelyne Estrella

My Commission Expires: December 20, 2023

STATE OF COLORADO)
) ss.
COUNTY OF Boulder)

The foregoing signature was subscribed and sworn to before me this 25th day of January, 2020, by Kamber Morrison.

Witness my hand and official seal.



Notary Public: 20194047487 Jocelyne Estrella

My Commission Expires: December 20, 2023

Land Owned

If necessary, attach separate sheet.

See Exhibit B attached hereto.

AFFIDAVIT OF CIRCULATOR

STATE OF COLORADO)
 Denver)ss.
City + COUNTY OF ~~WELD~~)

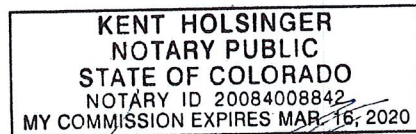
Sarah A. Ostby, being first duly sworn, states upon oath that he/she is the circulator of the petition to which this Affidavit is attached and knows of his/her own knowledge that the signature of each land owner appearing on said petition is the signature of the person whose name it purports it to be.

Sarah A. Ostby
(Signature of Circulator)

The foregoing Affidavit was subscribed and sworn to before me this 5th day of February, 2020, by Sarah A. Ostby.

Witness my hand and official seal.

My commission expires on 3/16/20.



Kent Holsinger
Notary Public

Exhibit A

Legal Description

LOT B, RECORDED EXEMPTION NO. 1471-17-4 RE-2466, PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, AS PER MAP RECORDED JUNE 18, 1999 AT RECEPTION NO. 2701220. COUNTY OF WELD, STATE OF COLORADO.

ALSO KNOWN BY STREET NUMBER AS 13757 COUNTY ROAD 8, FORT LUPTON, CO 80621.

SAID DESCRIBED PARCEL CONTAINS 37.58 ACRES, MORE OR LESS (\pm).

Exhibit B

Land Owned

LOT B, RECORDED EXEMPTION NO. 1471-17-4 RE-2466, PART OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, AS PER MAP RECORDED JUNE 18, 1999 AT RECEPTION NO. 2701220. COUNTY OF WELD, STATE OF COLORADO.

ALSO KNOWN BY STREET NUMBER AS 13757 COUNTY ROAD 8, FORT LUPTON, CO 80621.

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